

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 8.5 Consumer Products

Article 4. Alternative Control Plan

§ 94542. Definitions.

(a) For the purposes of this article, the following definitions shall apply:

(1) “ACP Emissions” means the sum of the VOC emissions from every ACP product subject to an Executive Order approving an ACP, during the compliance period specified in the Executive Order, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP Emissions} = (\text{Emissions})_1 + (\text{Emissions})_2 + \dots + (\text{Emissions})_N$$

where,

$$\text{Emissions} = [\text{VOC Content}] \times [\text{Enforceable Sales}] \quad 100$$

For all products except for charcoal lighter material products and aerosol coating products:

$$\text{VOC Content} = \frac{[(B - C) \times 100]}{A}$$

A = net weight of unit (excluding container and packaging)

B = total weight of all VOCs per unit, as defined in subsection (a)(31) of this section

C = total weight of all exempted VOCs per unit, as specified in section 94510

For charcoal lighter material products only:

$$\text{VOC Content} = [\text{Certified Emissions} \times 100] \quad \text{Certified Use Rate}$$

Certified Emissions = the emission level for products approved by the Executive Officer under section 94509(h), as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start. Certified Use Rate = the usage level for products approved by the Executive Officer under section 94509(h), as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

For aerosol coating products only:

$$\text{VOC Content} = \text{Percent VOC By Weight}$$

“Percent VOC By Weight” shall have the same meaning as defined in section 94521(a)(46);

For all products:

Enforceable Sales = the total amount of an ACP product sold for use in California, during the applicable compliance period specified in the Executive Order approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding container and packaging).

1,2,...N = each product in an ACP up to the maximum N.

(2) “ACP Limit” means the maximum allowable ACP Emissions during the compliance period specified in an Executive Order approving an ACP, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP Limit} = (\text{Limit})_1 + (\text{Limit})_2 + \dots + (\text{Limit})_N$$

where,

$$\text{Limit} = [\text{ACP Standard}] \times [\text{Enforceable Sales}] \quad 100$$

Enforceable Sales = the total amount of an ACP product sold for use in California, during the applicable compliance period specified in the Executive Order approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding container and packaging).

ACP Standard = either the ACP product's Pre-ACP VOC Content or the applicable VOC standard specified in sections 94509 or 94522, whichever is the lesser of the two.

Pre-ACP VOC Content = the lowest VOC content which the ACP product had between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Executive Officer, based on either the data on the product obtained from the March 12, 1991 Air Resources Board Consumer Products Survey, the data on the product obtained from the February 25, 1993 Air Resources Board Aerosol Paint Survey, or other accurate records available to the Executive Officer, whichever yields the lowest VOC content for the product.

1,2,...N = each product in an ACP up to the maximum N.

(3) “ACP Product” means any “consumer product” or any “aerosol coating product” subject to the VOC standards specified in sections 94509 or 94522, except those products that have been exempted under sections 94510 or 94523, or exempted as Innovative Products under section 94511

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(4) “ACP Reformulation” or “ACP Reformulated” means the process of reducing the VOC Content of an ACP product, within the period that an ACP is in effect, to a level which is less than the current VOC content of the product.

(5) “ACP Standard” means either the ACP product's Pre-ACP VOC Content or the applicable VOC standard specified in sections 94509 or 94522, whichever is the lesser of the two.

(6) “Alternative Control Plan” or “ACP” means any emissions averaging program approved by the Executive Officer pursuant to the provisions of this article.

(7) “Compliance Period” means the period of time, not to exceed one year, for which the ACP Limit and ACP Emissions are calculated and for which compliance with the ACP Limit is determined, as specified in the Executive Order approving an ACP.

(8) “Contact Person” means a representative(s) that has been designated by the responsible ACP party for the purpose of reporting or maintaining any information specified in the Executive Order approving an ACP.

(9) “Date-Code” means the day, month and year on which the ACP product was manufactured, filled, or packaged, or a code indicating such a date.

(10) “Enforceable Sales” means the total amount of an ACP product sold for use in California, during the applicable compliance period specified in the Executive Order approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding product container and packaging).

(11) “Enforceable Sales Record” means a written, point-of-sale record or any other Executive Officer-approved system of documentation from which the mass, in pounds (less product container and packaging), of an ACP product sold to the end user in California during the applicable compliance period can be accurately documented. For the purposes of this article, “enforceable sales records” include, but are not limited to, the following types of records:

(A) accurate records of direct retail or other outlet sales to the end user during the applicable compliance period;

(B) accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period, provided that a detailed method which can be used to verify any data comprising such summaries is submitted by the responsible ACP party and approved by the Executive Officer;

(C) any other accurate product sales records approved by the Executive Officer as meeting the criteria specified in this subsection (a)(11).

(D) for pesticides only, accurate mill assessment records for economic poisons, verified by the California Department of Pesticide Regulations, which cover the sales of ACP pesticide products during the applicable compliance period.

(12) “Executive Order” means the document signed by the Executive Officer which includes the conditions and requirements of the ACP, and which allows manufacturers to sell ACP products in California pursuant to the requirements of this article.

(13) “Gross California Sales” means the estimated total California sales of an ACP product during a specific compliance period (expressed to the nearest pound), based on either of the following methods, whichever the responsible ACP party demonstrates to the satisfaction of the Executive Officer will provide an accurate California sales estimate: (A) apportionment of national or regional sales of the ACP product to California sales, determined by multiplying the average national or regional sales of the product by the fraction of the national or regional population, respectively, that is represented by California's current population; or

(B) any other documented method which provides an accurate estimate of the total current California sales of the ACP product.

(14) “LVP” or “LVP Compound” means a low vapor pressure VOC which:

(A) has a vapor pressure less than 0.1 mm Hg at 20 degrees Centigrade, or

(B) if the vapor pressure is unknown, has more than 12 carbon atoms.

(15) “LVP Content” means the total weight, in pounds, of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

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(16) “Missing Data Days” means the number of days in a compliance period for which the responsible ACP part has failed to provide the required Enforceable Sales or VOC Content data to the Executive Officer, as specified in the Executive Order approving an ACP.

(17) “One-product business” means a responsible ACP party which sells, supplies, offers for sale, or manufactures for use in California:

(A) only one distinct ACP product, sold under one product brand name, which is subject to the requirements of sections 94509 or 94522, or

(B) only one distinct ACP product line subject to the requirements of sections 94509 or 94522, in which all the ACP products belong to the same product category(ies) and the VOC Contents in the products are within 98.0% and 102.0% of the arithmetic mean of the VOC Contents over the entire product line.

(18) “Pre-ACP VOC Content” means the lowest VOC content of an ACP product between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Executive Officer, based on either the data on the product obtained from the March 12, 1991 Air Resources Board Consumer Products Survey, the data on the product obtained from the February 25, 1993 Air Resources Board Aerosol Paint Survey, or other accurate records available to the Executive Officer, whichever yields the lowest VOC content for the product.

(19) “Product Line” means a group of products of identical form and function belonging to the same product category(ies).

(20) “Reconcile” or “Reconciliation” means to provide sufficient VOC emission reductions to completely offset any shortfalls generated under the ACP during an applicable compliance period.

(21) “Reconciliation of Shortfalls Plan” means the plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the Executive Officer pursuant to section 94543(a)(7)(J).

(22) “Responsible ACP Party” means the company, firm or establishment which is listed on the ACP product's label. If the label lists two or more companies, firms, or establishments, the “responsible ACP party” is the party which the ACP product was “manufactured for” or “distributed by”, as noted on the label. (23) “Retail Outlet” means any establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

(24) “Shortfall” means the ACP Emissions minus the ACP Limit when the ACP Emissions were greater than the ACP Limit during a specified compliance period, expressed to the nearest pound of VOC. “Shortfall” does not include emissions occurring prior to the date that the Executive Order approving an ACP is signed by the Executive Officer.

(25) “Small Business” shall have the same meaning as defined in Government Code Section 11342(h).

(26) “Surplus Reduction” means the ACP Limit minus the ACP Emissions when the ACP Limit was greater than the ACP Emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in section 94547(c), “Surplus Reduction” does not include emissions occurring prior to the date that the Executive Order approving an ACP is signed by the Executive Officer.

(27) “Surplus Trading” means the buying, selling, or transfer of Surplus Reductions between responsible ACP parties.

(28) “Total Maximum Historical Emissions” (TMHE), means the total VOC emissions from all ACP products for which the responsible ACP party has failed to submit the required VOC Content or Enforceable Sales records. The TMHE shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP has failed to provide the required VOC Content or Enforceable Sales records. The TMHE shall be expressed to the nearest pound and calculated according to the following calculation:

$$\text{TMHE} = (\text{MHE})_1 + (\text{MHE})_2 + \dots + (\text{MHE})_N$$

$$\text{MHE} = [\text{Highest VOC Content} \times \text{Highest Sales}] \times \text{Missing Data Days}$$

$$100 \times 365$$

where,

Highest VOC Content = the maximum VOC content which the ACP product has contained in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting VOC Content data (for any portion of the compliance period), as specified in the Executive Order approving the ACP, or the current actual VOC Content, if the responsible ACP party has provided all required VOC Content data (for the entire compliance period), as specified in the Executive Order.

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Highest Sales = the maximum one-year Gross California Sales of the ACP product in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting Enforceable Sales records (for any portion of the compliance period), as specified in the Executive Order approving the ACP, or the current actual one-year Enforceable Sales for the product, if the responsible ACP party has provided all required Enforceable Sales records (for the entire compliance period), as specified in the Executive Order approving the ACP.

Missing Data Days = the number of days in a compliance period for which the responsible ACP party has failed to provide the required Enforceable Sales or VOC Content data as specified in the Executive Order approving an ACP.

1, 2, ..., N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required Enforceable Sales or VOC Content data as specified in the Executive Order approving an ACP.

(29) "VOC Content" means the total weight of VOC in a product, expressed to the nearest 0.1 pounds of VOC per 100 pounds of product and calculated according to the following equation:

For all products except for charcoal lighter material products and aerosol coating products:
$$\text{VOC Content} = \frac{(B - C) \times 100}{A}$$

A = net weight of unit (excluding container and packaging)

B = total weight of all VOCs per unit, as defined in section 94542(a)(31)

C = total weight of all exempted VOCs per unit, as specified in section 94510

For charcoal lighter material products only,

$$\text{VOC Content} = [\text{Certified Emissions} \times 100] \times \text{Certified Use Rate}$$

Certified Emissions = the emissions level for products approved by the Executive Officer under section 94509(h), as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start.

Certified Use Rate = the usage level for products approved by the Executive Officer under section 94509(h), as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

For aerosol coating products only:

$$\text{VOC Content} = \text{Percent VOC By Weight}$$

"Percent VOC By Weight" shall have the same meaning as defined in section 94521(a)(46).

(30) "VOC Standard" means the maximum allowable VOC content for an ACP product, determined as follows:

(A) the applicable VOC Standard specified in sections 94509 or 94522, for all ACP products except for charcoal lighter material;

(B) for charcoal lighter material products only, the VOC Standard for the purposes of this article shall be calculated according to the following equation:

$$\text{VOC Standard} = [0.020 \text{ pound CH}_2 \text{ per start} \times 100] \times \text{Certified Use Rate where,}$$

0.020 = the certification emissions level for the Executive Officer-approved product, as specified in section 94509(h).

Certified Use Rate = the usage level for products approved by the Executive Officer under section 94509(h), as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

(31) "Volatile Organic Compound" or "VOC" shall have the same meaning as defined in section 94508(a)(90).

(32) "Working Day" means any day between Monday through Friday, inclusive, except for days that are federal holidays.

(b) The definitions set forth in sections 94508 and 94521, Title 17, California Code of Regulations, shall also apply to this article.

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

REFERENCE